

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7241

BILL NUMBER: SB 302

NOTE PREPARED: Jan 2, 2011

BILL AMENDED:

SUBJECT: Nepotism; Public Employee Holding Elected Office.

FIRST AUTHOR: Sen. Lawson C

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: *Public Employees Holding Elective Office-* The bill provides that an employee of a political subdivision is considered to have resigned from employment with the political subdivision if the employee assumes the elected executive office of the political subdivision or becomes an elected member of the political subdivision's legislative or fiscal body. The bill specifies that the restriction applies to an employee of a political subdivision who assumes an elected office after June 30, 2011, but provides that the restriction does not apply to an employee of a political subdivision who holds elective office on June 30, 2011, as long as the individual continues to hold or be reelected to that office. The bill provides that the restriction does not prohibit an employee of a political subdivision from holding an elected office of a political subdivision other than the political subdivision that employs the government employee.

Local Government Nepotism- The bill prohibits a relative of an executive of a political subdivision from being employed by the political subdivision. The bill prohibits a relative of an employee of a political subdivision from being employed by the political subdivision in a position that would put the relative in a direct supervisory or subordinate relationship with the employee. The bill specifies that an employee of a political subdivision is not required by these provisions to be terminated or reassigned from any position held by that individual before July 1, 2011, but provides that this grandfathering provision expires January 1, 2015.

Political Subdivision Contracts- The bill prohibits a political subdivision from entering into or renewing a contract with: (1) an individual to provide goods or services to the political subdivision if the individual is a relative of an executive of a political subdivision; or (2) a business entity to provide goods or services if a relative of an executive of the political subdivision has an ownership interest in the business entity.

Effective Date: July 1, 2011.

Explanation of State Expenditures: *Political Subdivision Contracts-* The bill specifies that political subdivision executives must provide a report to the State Board of Accounts (SBOA), under the penalty of perjury if falsified, that the political subdivision is in compliance with the nepotism and contractual requirements of the bill. Political subdivision executives would be subject to perjury, a Class D felony, for falsely certifying that the township is in compliance with nepotism provisions established under the bill.

Penalty Provision: A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$4,818 annually, or \$13.20 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: *Penalty Provision:* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony is \$10,000. However, any additional revenues would likely be small.

Explanation of Local Expenditures: *Annual Budgets-* The bill specifies that political subdivisions that do not file a statement with the SBOA that they are in compliance with the above requirements would not have their budgets nor any additional appropriations approved by the Department of Local Government Finance in the following year until notified by the SBOA that the subdivision is in compliance. Any impact on local expenditures would depend on the amount of time a political subdivision was not in compliance.

Penalty Provision: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

Explanation of Local Revenues: *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, the amounts would likely be small.

State Agencies Affected: Department of Correction; State Board of Accounts; Department of Local Government Finance.

Local Agencies Affected: Trial courts, local law enforcement agencies, county prosecutors.

Information Sources:

Fiscal Analyst: Chris Baker, 317-232-9851.